

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Frederic Bauchot

Examiner: Singh, Rachna

Serial No. 09/995,266

Group Art Unit: 2176

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Docket No.: **FR920000062US1**

Title: **METHOD AND SYSTEM IN AN ELECTRONIC SPREADSHEET FOR
PERSISTENTLY FILLING BY SAMPLES A RANGE OF CELLS**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF OF APPELLANT

This Reply Brief is in reply to the Examiner's Answer mailed February 25, 2008.

GROUND OF REJECTION 1

Claims 1-2 and 7-24 stand rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Flaherty, John, "Selected Excel Basics, Excel Tips for Efficient Spreadsheet Use", Available: http://www.bf.rmit.edu.au/quant/Excel/Excel_Tips.pdf ., available in 1999 (as further evidenced by screen shots provided from Microsoft Excel, copyright 1985-1999).

In the Appeal Brief, Appellant provided three independent arguments to demonstrate that the preceding rejection of claims 1-2 and 7-24 under 35 U.S.C. § 102(a) is not valid. The three independent arguments are: (1) Flaherty cannot be used as a reference to support the rejection; (2) the references of Flaherty and Screen Shots cannot be combined to demonstrate alleged anticipation claims 1-2 and 7-24 under 35 U.S.C. § 102(a); and (3) Flaherty does not anticipate claims 1-2 and 7-24. These three arguments will be addressed herein in relation to the Examiner's Answer.

Flaherty Cannot Be Used as Reference Under 35 U.S.C. § 102(a)

Appellant respectfully contends that Flaherty cannot be used as a reference to support the rejection of claims 1-2 and 7-24 under 35 U.S.C. § 102(a).

The Examiner's Answer cited Flaherty as a printed publication that allegedly anticipates claims 1-2 and 7-24 under 35 U.S.C. § 102(a). However with respect to a printed publication, 35 U.S.C. § 102(a) recites: "person shall be entitled to a patent unless ... the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, **before the invention thereof by the applicant for patent**" (emphasis added). Therefore, a printed publication can be used as a description of an invention only if the

publication was published before the invention and certainly before the filing date of the patent application associated with the invention.

Prior to the Examiner's Answer, the Examiner had offered no proof that Flaherty was published before the filing date, namely 11/27/2001, of the present patent application. Page 13 of the Examiner's Answer, however presents *new evidence*, namely the "Document Properties" generated by the Adobe Acrobat Professional for the Flaherty reference, which is alleged in the Examiner's Answer, page 12 to indicate that Flaherty was created and published on 8/30/00.

In response, Appellant respectfully contends that the Examiner's Answer cannot add *new evidence* and therefore the new evidence of the aforementioned "Document Properties" should not be considered in this appeal.

Appellants notes that 37 C.F.R. 41.39(a)(2) recites: "An examiner's answer may include a new ground of rejection." However, 37 CFR § 41.39 does not state that an Examiner's Answer may introduce *new evidence* to support an existing ground of rejection and the Examiner's Answer has not cited any legal authority or text in the MPEP that allows the Examiner's Answer to introduce new evidence to support an existing ground of rejection.

Accordingly, Appellant respectfully requests that the new evidence of the aforementioned "Document Properties" not be considered in this appeal.

The Examiner's Answer alleges that the Screen Shots allegedly associated with the 1999 version of Microsoft Excel evidences that Flaherty was publically available in 1999. Specifically, the Examiner's Answer, pages 14 argues: "On pages 5-6 of the Brief, Appellant argues that while Excel 2000 was available to users during 1985-1999, it was also available after

1999 and therefore, the screen shots generated may not have been before the filing date of November 27, 2001. Examiner disagrees. The screenshots have been produced from Excel 2000 version copyrighted from 1985-1999 which means the last update was made in 1999. The features of Excel presented in the screenshots were available to users in 1999.”

In response, Appellant acknowledges that Microsoft Excel 2000 was available to users during the years 1985-1999, because the copyright notice appearing on page 1 of the screenshots evidences that the program Microsoft Excel 2000 has a copyright date of 1985-1999. However, the program Microsoft Excel 2000 was also available to users after 1999 and was most certainly available to users after the filing date of November 27, 2001 of the present patent application. The remaining pages 2-12 of Screen Shots presented as evidence by the Examiner’s Answer do not indicate the specific dates when the screen shots of pages 2-12 were generated allegedly using Microsoft Excel 2000. The Examiner’s Answer has not presented any evidence allegedly demonstrating that the screen shots of pages 2-12 of Screen Shots were generated via execution of Microsoft Excel 2000 before the filing date of November 27, 2001 of the present patent application. A user may have executed Microsoft Excel 2000 after November 27, 2001 to generate the screen shots of pages 2-12 of Screen Shots and the Examiner’s Answer has not presented any evidence demonstrating otherwise.

In addition, Appellant asserts that the screen shots of pages 2-12 of Screen Shots have no legal credibility as evidence, because the Examiner’s Answer has not cited any source from which the screen shots of pages 2-12 were extracted and reprinted for use in the present appeal. Therefore, the screen shots of pages 2-12 of Screen Shots relied upon by the Examiner’s Answer are not legally credible evidence.

Therefore, one may not infer from Screen Shots when Flaherty was publically available.

Accordingly, Appellant reiterates that Flaherty cannot be used as a reference to support the rejection of claims 1-2 and 7-24 under 35 U.S.C. § 102(a), because the Examiner's Answer has offered no persuasive evidence that can be used in this appeal to allegedly show that Flaherty was published before the filing date, namely 11/27/2001, of the present patent application.

Therefore, Flaherty cannot be used as a printed publication to anticipate claims 1-2 and 7-24 under 35 U.S.C. § 102(a).

The References of Flaherty and Screen Shots Cannot Be Combined To Demonstrate Alleged Anticipation of Claims 1-2 and 7-24 Under 35 U.S.C. § 102(a)

Only a single reference can be used to reject claims 1-2 and 7-24 as allegedly anticipated under 35 U.S.C. § 102(a). By combining the references of Flaherty and Screen Shots, the rejection of claims 1-2 and 7-24 is outside the scope of 35 U.S.C. § 102(a) and thus improper.

The Appeal Brief presented the following argument.

In the Advisory Action, the Examiner argues: "MPEP 2131.01 discussed multiple references 35 U.S.C. 102 rejections where multiple references can be used to prove the primary reference contains an enabled disclosure. Specifically, when a claimed machine is disclosed identically by the reference, an additional reference may be relied upon to show that the primary reference has an "enabled disclosure". Also, an extra reference or evidence can be used to show an inherent characteristic of the thing taught by the primary reference. Such is the case here. The Microsoft Excel 2000 screen shots are evidence that the teachings of the primary reference were an inherent characteristic of the spreadsheet."

In response, Applicant respectfully contends that the screen shots generated by Microsoft

Excel 2000 are not being used to show that the teachings of Flaherty are an enabled disclosure.

In further response, Applicant respectfully contends that the screen shots generated by Microsoft Excel 2000 does not show that a characteristic missing in Flaherty is inherent. The Examiner has not identified any such characteristic and its alleged inherency.

The Examiner's Answer has not challenged the preceding argument made by Appellant in the Appeal Brief, which may be interpreted as an acknowledgment in the Examiner's Answer the preceding argument by Appellant in the Appeal Brief is persuasive.

Furthermore in the Examiner's Answer repeatedly uses the combination of Flaherty and Screen Shots to reject claims 1-2 and 7-24 under 35 U.S.C. § 102(a) as allegedly anticipated by Flaherty with respect to alleged disclosure of specific features of claims 1-2 and 7-34, which is improper under 35 U.S.C. § 102(a).

Therefore, the Examiner has improperly invoked the combination of Flaherty and Screen Shots to reject specific features of claims 1-2 and 7-24 under 35 U.S.C. § 102(a), which is legally impermissible.

Accordingly, Applicants respectfully assert that by combining the references of Flaherty and Screen Shots, the rejection of claims 1-2 and 7-24 is outside the scope of 35 U.S.C. § 102(a) and thus improper.

Flaherty Does Not Anticipate Claims 1-2 and 7-24

Appellant respectfully contends that Flaherty does not anticipate claim 1, because Flaherty does not teach each and every feature of claim 1.

Appellant respectfully contends that Flaherty does not teach the feature: “selecting the range of cells, said range comprising a plurality of sample cells and one or a plurality of empty cells, wherein **prior to said selecting** each sample cell contains a sample value ...; **after said selecting**, ordering the sample cells ...; and **after said ordering**, processing the empty cells comprising ... computing the value y_i of the empty cell according to the values y_{previous} contained in the selected one or plurality of previous sample cells, and the values y_{next} contained in the selected one or plurality of next sample cells” (emphasis added).

The Examiner’s Answer argues that Flaherty discloses “[e]ntering a data series with specific start and stop values entered for a data series. For example cell A2 may contain a start value of 10 and a stop value of 90 is indicated with a step value of 5. See pages 4-5, "Entering a Data Series". In indicating a start and stop value in a series of cells, the "previous sample cell" and "next sample cell" of the empty cells in between the start value and stop value are specified.”

In response, Appellant respectfully contends that in Flaherty the start value of 10 and the stop value of 90 in the Series dialogue box is indicated in Flaherty, page 5. Flaherty does not anywhere teach that the start value of 10 and the stop value of 90 (which are the sample values) are placed in cells of the spreadsheet **prior to** selecting the range of cells, as required by claim 1.

In claim 1, the quoted phrases “**prior to said selecting**”, “**after said selecting**”, and “**after said ordering**” require that the sample cells containing their respective sample values must be in the spreadsheet **before the range of cells is selected**, which Flaherty does not teach.

Appellant points out that the words “sample cell” and “empty cell” used in said computing y_i are subject to the claimed requirement of: “wherein **prior to said selecting** each sample cell contains a sample value and an empty cell contains no value or a value not

considered as a sample value”.

In contrast, in the example in pages 4-5 of Flaherty, Step 1 fills the cell A1 with the starting value of 10. Step 2 enters the step value of 5 and the stop value of 90 into a dialog box shown in the Figure at the top of page 5 of Flaherty to “select the range of cells to fill”. Step 3 selects the Fill command which generates the filled-in cells A2, ..., A17 shown in the Figure at the top of page 5 of Flaherty.

Thus, Flaherty teaches selecting the range of cells in Step 2 **before** the sample values are placed in the spreadsheet in Step 3, which is the **exact opposite** of what claim 1 requires. In particular, claim 1 requires selecting the range of cells **after** the sample values are placed in the spreadsheet as explained *supra*.

In summary, claim 1 requires that a plurality of sample cells (i.e., at least two sample cells) contain a sample value in each such sample cell before the range of cells is selected. However, Flaherty discloses in Step 1 only one sample cell (A1) as having a sample value (10) therein before the range of cells (10 to 90 in steps of 5) is selected in Step 2. Therefore Flaherty does not teach the preceding feature of claim 1.

In response to the preceding argument by Appellants, the Examiner’s Answer, page 14 in “Response to Argument” argues: “As an initial point, there does not appear to be a limitation excluding the dialog box as being the means by which the cells are filled. The dialog box represents the spreadsheet cells. In other words, the claim does not necessarily require that the values be generated from within the cells of the spreadsheet but rather that the values be generated and processed for empty cells which is what the dialog box does. Using the dialog box, the cells A2-A17 can be filled in with values based on previous cell value and next cell value as

depicted in the EXCEL screenshots on pages 8-9 and also in Flaherty on page 5. Furthermore, the cells *can* certainly contain a value in the spreadsheet before the range of cells are selected from within the dialog box. The use of a dialog box does not prohibit sample cells being filled out prior to utilizing the dialog box” (emphasis added).

In response, Appellant notes that the Examiner has improperly invoked the two references of Flaherty and EXCEL screenshots to support the rejection of claim 1 under 35 U.S.C. § 102(a), which is legally impermissible as explained *supra*. Only a single reference may be used to support a claim rejection under 35 U.S.C. § 102(a).

In further response, Appellant asserts that the issue is not whether the sample cells *can* contain a value in the spreadsheet before the range of cells is selected. The issues is whether Flaherty teaches that the values are placed in the spreadsheet before the range of cells is selected. As explained *supra*, Flaherty does not teach that the values (used to compute values in empty cells as claimed) are placed in the spreadsheet before the range of cells is selected, but rather teaches that he values are placed in the spreadsheet after the range of cells is selected.

With respect to the preceding feature of claim 1, the Examiner’s Answer, page 15 further argues: “Appellant further argues that Flaherty does not teach the features of claim 1 because it allows a user to enter a start value, a step value, and a stop value, but this is done within a dialog box and not by cells of the spreadsheet”.

In response, Appellant asserts that Appellant has not argued what is alleged in the preceding quote in Examiner’s Answer, page 15. Appellants rely specifically on what Appellant has actually actual argued *supra*.

In addition, Flaherty does not disclose an algorithm for generating the filled-in cells A1, A2, ..., A17 shown in the Figure at the top of page 5 of Flaherty. Therefore, Flaherty does not disclose computing a value for any of the empty cells A2, ..., A17 according to a value (y_{previous}) contained in **a previous cell** and a value (y_{next}) contained in **a next cell**. Applicant asserts that it is not inherent that a value would be computed for any of the empty cells A2, ..., A17 according to a value (y_{previous}) contained in **a previous cell** and a value (y_{next}) contained in **a next cell**. For example, the following simple algorithm in C-language code could be used to fill in the empty cells in Flaherty's example by using **only previous cell values**:

for ($i = 2$; $i=18$; $i++$) $A_i = A_{i-1} + 5$;

In response to the preceding argument by Appellants, the Examiner's Answer, pages 15-16 in "Response to Argument" argues: "On page 10 of the Brief, Appellant argues Flaherty does not teach an algorithm for generating the filled-in cells A1-A17 shown in the figure at the top of page 5 of Flaherty. Appellant argues Flaherty does not disclose computing a value according to the value in the previous cell and the value in the next cell. Examiner disagrees. Flaherty teaches entering a data series with specific start and stop values entered for a data series. For example cell A2 may contain a start value of 10 and a stop value of 90 is indicated with a step value of 5. See Flaherty pages 4-5, "Entering a Data Series" and the corresponding EXCEL screenshot on pages 6-9. In indicating a start and stop value in a series of cells, the "previous sample cell" and "next sample cell" of the empty cells in between the start value and stop value are specified and the remaining cells filled in according to the algorithm set in the dialog box."

In response, Appellant notes that the Examiner has improperly invoked the two references of Flaherty and EXCEL screenshots to support the rejection of claim 1 under 35 U.S.C. § 102(a),

which is legally impermissible as explained *supra*. Only a single reference may be used to support a claim rejection under 35 U.S.C. § 102(a).

In further response, Appellant reiterates that the following simple algorithm in C-language code could be used to fill in the empty cells in Flaherty's example by using **only previous cell values**:

for (i = 2 ; i=18; i++) $A_i = A_{i-1} + 5$;

Therefore, Appellant asserts that Flaherty does not explicitly or inherently teach that computing a value for any of the empty cells A2, ..., A17 according to a value (y_{previous}) contained in a **previous cell** and a value (y_{next}) contained in a **next cell** as required by claim 1.

If the Examiner is arguing that Flaherty inherently teaches that computing a value for any of the empty cells A2, ..., A17 according to a value (y_{previous}) contained in a **previous cell** and a value (y_{next}) contained in a **next cell**, Appellant respectfully asserts that under case law, the alleged inherency must **necessarily and inevitably** follow from the teachings in the prior art and a high probability of occurrence is not sufficient demonstrating inherency. See MPEP 2112(IV) which recites: "The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is **necessarily** present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or

possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999)...

"In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)" (bold emphasis added).

Appellant asserts that it does not *necessarily* flow from the teachings of Flaherty that computing a value for any of the empty cells A2, ..., A17 according to a value (y_{previous}) contained in a **previous cell** and a value (y_{next}) contained in a **next cell**.

Therefore, Flaherty does not teach the preceding feature of claim 1.

Based on the preceding arguments, Appellant respectfully maintains that Flaherty does not anticipate claim 1, and that claim 1 is in condition for allowance. Since claims 2 and 7-24 depend from claim 1, Appellant contends that claims 2 and 7-24 are likewise in condition for allowance.

In addition, with respect to claim 2, Flaherty does not teach the feature: "wherein said step of computing the value y_i of each empty cell according to the values y_{previous} contained in the selected one or plurality of previous sample cells, and the values y_{next} contained in the selected one or plurality of next sample cells, comprises the further step of: computing the value y_i of the empty cell according to the values x_{previous} associated with the content y_{previous} of the selected one or plurality of previous sample cells, and the values x_{next} associated with the content y_{next} of the selected one or plurality of next sample cells."

The Examiner's Answer argues: "In reference to claim 2, Flaherty teaches entering a data series with specific start and stop values entered for a data series. For example cell A2 may contain a start value of 10 and a stop value of 90 is indicated with a step value of 5. See pages 4-5, "Entering a Data Series". In indicating a start and stop value in a series of cells, the "previous sample cell" and "next sample cell" of the empty cells in between the start value and stop value are specified."

In response, Appellant the preceding argument by the Examiner's Answer does not demonstrate a teaching by Flaherty of the preceding feature of claim 2, because the preceding algorithm in Flaherty stated by the Examiner's Answer uses y-values in computing the value y_i of each empty cell, but does not use x-values as required by claim 2.

In response to the preceding argument by Appellants, the Examiner's Answer, page 16 in "Response to Argument" argues: "On page 11 of the Brief, Appellant argues Flaherty does not teach "the preceding feature of claim 2, because the preceding algorithm in Flaherty uses y-values in computing the value y_i of each empty cell but does not use x-values". Examiner disagrees. Flaherty teaches entering a data series with specific start and stop values entered for a data series. For example cell A2 may contain a start value of 10 and a stop value of 90 is indicated with a step value of 5. See Flaherty pages 4-5, "Entering a Data Series" and the corresponding EXCEL screenshot on pages 6-9. In indicating a start and stop value in a series of cells, the "previous sample cell" and "next sample cell" of the empty cells in between the start value and stop value are specified."

In response, Appellant notes that the Examiner has improperly invoked the two references of Flaherty and EXCEL screenshots to support the rejection of claim 2 under 35 U.S.C. § 102(a),

which is legally impermissible as explained *supra*. Only a single reference may be used to support a claim rejection under 35 U.S.C. § 102(a).

In further response, Appellant asserts that the preceding argument by the Examiner's Answer is not persuasive, because the sequence of values (10, 15, 20, 25, 30, 35, 40, 45, 50, 55, 60, 65, 70, 75, 80, 85, 90) generated from a start value of 10, a stop value of 90, and a step value of 5 are only y-values. Flaherty does not disclose the use of x-values in generating the preceding sequence of values. In claim 1, which claim 2 depends from, it is recited that y-values are associated with a variable x and Flaherty does not teach the use of such a variable x in computing the y-values of the aforementioned sequence of y-values (10, 15, 20, ..., 85, 90).

Accordingly, Flaherty does not anticipate claim 2.

In addition, with respect to claim 8, Flaherty does not teach the feature: "wherein the step of computing the value y_i of an empty cell comprises the step of computing the value y_i as equal to:

$$y_i = y_{\text{previous}} + (x_i - x_{\text{previous}}) * ((y_{\text{next}} - y_{\text{previous}}) / (x_{\text{next}} - x_{\text{previous}}))$$

where :

y_{previous} is the content of a previous cell containing a sample;

x_{previous} is the value of the variable x associated with the content of the previous cell containing a sample;

y_{next} is the content of a following cell containing a sample;

x_{next} is the value of the variable x associated with the content of a following cell containing a sample;

x_i is the value of the variable x associated with the empty cell."

The Examiner's Answer argues: "In reference to claim 8, Flaherty teaches the value of y_i ;

is calculated by determining the pattern in the range of cells. This entails determining content of a previous/start cell and next/stop cell and the value associated with the content in order to determine the value of the empty cell. For example, content and value of a previous/start cell and a next/stop cell are used to calculate what goes into an empty cell. See pages 4-5, "Entering a Data Series" and the corresponding EXCEL screenshot on pages 6-9."

In response, Appellant notes that the Examiner has improperly invoked the two references of Flaherty and EXCEL screenshots to support the rejection of claim 8 under 35 U.S.C. § 102(a), which is legally impermissible as explained *supra*. Only a single reference may be used to support a claim rejection under 35 U.S.C. § 102(a).

In further response, Appellant asserts Flaherty does not anywhere teach use of the formula: $y_i = y_{\text{previous}} + (x_i - x_{\text{previous}}) * ((y_{\text{next}} - y_{\text{previous}}) / (x_{\text{next}} - x_{\text{previous}}))$ as required by claim 8.

Accordingly, Flaherty does not anticipate claim 8.

In addition, with respect to claim 9, Flaherty does not teach the feature: "wherein said selected range of cells comprises a double column or double row range of cells, said range of cells comprising 2N cells, wherein the i-th cell in a first column or first row comprises a value x_i and the second column or second row comprises a value $y_i = f(x_i)$."

The Examiner's Answer argues: "In reference to claim 9, Conlon discloses a means in which a selected range of cells comprises a single column and row of cells. See Flaherty figures on pages 1-2 and the corresponding EXCEL screen shot on page 3. Each cell comprises a value."

In response, Appellant notes that the Examiner has improperly invoked the two references of Flaherty and EXCEL screenshots to support the rejection of claim 9 under 35 U.S.C. § 102(a),

which is legally impermissible as explained *supra*. Only a single reference may be used to support a claim rejection under 35 U.S.C. § 102(a).

In further response, Appellant asserts that the Examiner's argument is ambiguous, because Appellant cannot determine what "Conlon" refers to.

In yet further response, Appellant respectfully contends that the argument in the Examiner's Answer is not persuasive, because neither "a double column" nor "a double row" reads on "a single column and row".

Accordingly, Flaherty does not anticipate claim 9.

In addition, with respect to claim 10, Flaherty does not teach the feature: "wherein the step of filling cells comprises the further step of: defining a table and associating said table with the selected range of cells, said table comprising for each empty cell i:

- an "index field" for identifying said empty cell;
- a "sample field" for indicating that said cell is an empty cell;
- a " X_i field" with the value x_i associated with said empty cell;
- an "index of previous sample field" with the value of the "index field" of a previous record having a sample value;
- a "Prev. sample field" with the value of the " X_i field" of a previous record having a sample value;
- a " $f(\text{Prev. sample})$ field" with a value $y = f(x)$ of a cell in the range corresponding to a previous record having a sample value;
- an "index of next sample field" with a value of the "index field" of a next record having a sample value;
- a " X_{next} sample field" with a value of the " X_i field" of a next record having a sample value;

a “f(X_{next sample}) field” with a value $y = f(x)$ of a cell in the range corresponding to a next record having a sample value.”

The Examiner’s Answer argues that Flaherty teaches such a table, but does not cite any such table in Flaherty having the 9 recited fields.

Appellant asserts that Flaherty does not teach any such table having the 9 recited fields. In fact no table appearing in Flaherty depicts more than 7 fields, namely fields A, B, C, D, E, F, G on Flaherty, page 8, and these 7 fields are not the fields recited in the preceding feature of claim 10.

Accordingly, Flaherty does not anticipate claim 10.

In addition, with respect to claim 11, Flaherty does not teach the feature: “wherein said table further comprises for each sample cell i:

- an “index field” for identifying said sample cell;
- a “sample field” for indicating that said cell is a sample cell;
- a “X_i field” with the value x_i associated with said sample cell;
- the “index of previous sample field” with the value of the “index field” of said sample cell;
- a “Prev. sample field” with the value of the “X_i field” of said sample cell;
- the “f(Prev. sample) field” with the value $y = f(x)$ of said sample cell;
- the “index of next sample field” with the value of the “index field” of said sample cell;
- the “X_{next sample} field” with the value of the “X_i field” of said sample cell;
- the “f(X_{next sample}) field” with the value $y = f(x)$ of said sample cell.”

The Examiner’s Answer argues that Flaherty teaches the preceding recited fields in the table, but does not cite any such teaching of the recited fields of any table in Flaherty.

In response, Appellant asserts that Flaherty does not teach the recited fields in any table.

Accordingly, Flaherty does not anticipate claim 11.

In addition, with respect to claim 22, Flaherty does not teach the feature: “further comprising designating the selected range of cells as a persistent sampled range of cells (PSROC).”

The Examiner’s Answer argues: “In reference to claim 22, Flaherty teaches a user can initiate a data series by entering a start value and an end value for a range of cells with a specified step value. By initiating the series dialogue box, a user may change the sample values or step values (i.e. start and stop values) thereby adding or deleting a sample cell or empty cell. See pages 4-5, "Entering a Data Series" and the corresponding EXCEL screenshot on pages 6-9.”

In response, Appellant notes that the Examiner has improperly invoked the two references of Flaherty and EXCEL screenshots to support the rejection of claim 22 under 35 U.S.C. § 102(a), which is legally impermissible as explained *supra*. Only a single reference may be used to support a claim rejection under 35 U.S.C. § 102(a).

In further response, Appellant asserts that the preceding the argument in the Examiner’s Answer has no relevance to the preceding feature of claim 22.

Accordingly, Flaherty does not anticipate claim 22.

In addition, with respect to claim 23, Flaherty does not teach the feature: “wherein a background color of the selected range of cells is a first color before said designating the selected range of cells as a PSROC, and wherein after said designating the selected range of cells as a PSROC the method further comprises changing the background color of the selected range of cells to a second color that differs from the first color”.

The Examiner’s Answer alleges that “Flaherty teaches custom formatting of cells where a

user can indicate a range of cells and font, border, pattern, and background information. See page 12 and the corresponding EXCEL screenshot on pages 6-9.”

In response, Appellant notes that the Examiner has improperly invoked the two references of Flaherty and EXCEL screenshots to support the rejection of claim 23 under 35 U.S.C. § 102(a), which is legally impermissible as explained *supra*. Only a single reference may be used to support a claim rejection under 35 U.S.C. § 102(a).

In response, Applicants asserts that the the argument in the Examiner’s Answer is not persuasive because “background color” does not read on “font, border, pattern, and background information”. Appellant notes that Flaherty, page 12 is totally silent as to the use of color for any purpose.

Accordingly, Flaherty does not anticipate claim 23.

In addition, with respect to claim 24, Flaherty does not teach the feature: “wherein for at least one empty cell of said empty cells:

said one or a plurality of previous sample cells consists of said plurality of previous sample cells,

said one or a plurality of next sample cells consists of said plurality of next sample cells,
or

said one or a plurality of previous sample cells consists of said plurality of previous sample cells and said one or a plurality of next sample cells consists of said plurality of next sample cells.”

In response, Appellant notes that the Examiner has improperly invoked the two references of Flaherty and EXCEL screenshots to support the rejection of claim 24 under 35 U.S.C. § 102(a), which is legally impermissible as explained *supra*. Only a single reference may be used to support a claim rejection under 35 U.S.C. § 102(a).

The Examiner's Answer argues: "In reference to claim 24, Flaherty teaches entering a data series with specific start and stop values entered for a data series. For example cell A2 may contain a start value of 10 and a stop value of 90 is indicated with a step value of 5. See pages 4-5, "Entering a Data Series". In indicating a start and stop value in a series of cells, the "previous sample cell" and "next sample cell" of the empty cells in between the start value and stop value are specified."

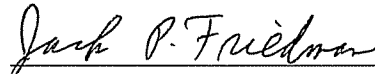
In response, Appellant asserts that the preceding argument the argument in the Examiner's Answer has no relevance to the preceding feature of claim 24 which requires that use of plurality of previous sample cells, plurality of next sample cells, or use of both a plurality of previous sample cells and a plurality of next sample cells for computing y_i at the at least one empty cell.

Accordingly, Flaherty does not anticipate claim 24.

SUMMARY

In summary, Appellant respectfully requests reversal of the May 7, 2007 Office Action rejection of claims 1, 2 and 7-24.

Respectfully submitted,

A handwritten signature in cursive script, reading "Jack P. Friedman", written in dark ink.

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